

THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No. 91 of 2004

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Dated: 12.10.2006

Between:

R. Rajesham, S/o Ramaiah, aged 42 years, Occ: Ex-Conductor,
R/o Kannala village, Kamanpur Mandal, Karimnagar District.

..... PETITIONER

AND

The Chairman, Industrial Tribunal-cum-Labour Court, Godavarikhani,
Karimnagar District and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

-
Writ Petition No. 91 of 2004

Order:

The award dated 18.07.2001, passed by the Industrial Tribunal-cum-Labour Court, Godavarikhani, in I.D. No. 90 of 2000, which was notified vide G.O. Rt. No.2052 on 21.08.2001, is called in question in this writ petition.

The petitioner was appointed as a Conductor in the 2nd respondent-Corporation in the year 1981. He was issued a charge sheet dated 27.01.1992 alleging that while conducting the bus he committed certain cash and ticket irregularities on 08.01.1992. The petitioner submitted his explanation denying the charges leveled against him. Not satisfied with the said explanation, an enquiry was conducted into the charges. The Enquiry Officer, having conducted the enquiry, held the charges proved. Based on the findings of the enquiry report, a notice dated 26.06.1992 calling upon the petitioner to show cause as to why he shall not be removed from service was issued. Upon considering the explanation submitted by the petitioner thereto, vide order dated 08.07.1992, the 2nd respondent ordered his removal. Assailing the order of removal, the petitioner filed an appeal and review petition before the appellate authority, which were also dismissed. Thereupon, the petitioner raised an industrial dispute in I.D. No. 90 of 2000, and the Labour Court by reason of the award impugned in this writ petition dismissed the same confirming the order of removal. Hence, he filed the present writ petition.

Heard the learned counsel for the petitioner and the learned

Standing Counsel for the 2nd respondent-Corporation, and perused the award of the Labour Court.

The main contention of the learned counsel for the petitioner is that though the petitioner has raised a contention that the departmental enquiry was not conducted fairly and properly, the Labour Court has not given any finding as to the validity or otherwise of the domestic enquiry. He, thus, prays to remand the matter to the Labour Court, for adjudication from the stage of deciding the validity or otherwise of the enquiry.

A perusal of the impugned award of the Labour Court clearly indicates that the Labour Court has not given any finding about the validity of the domestic enquiry. That apart, it also indicates that the Labour Court has not properly appreciated the material and evidence produced before it and the award passed by the Labour Court is very cryptic without analyzing the evidence.

In “**Cooper Engineering Ltd., v. P.P. Mundhe**¹”, the apex Court observed thus.

“We are, therefore, clearly of opinion that when a case of dismissal or discharge of an employee is referred for industrial adjudication the labour court should first decide as a preliminary issue whether the domestic enquiry has violated the principles of natural justice. When there is no domestic enquiry or defective enquiry is admitted by the employer, there will be no difficulty. But when the matter is in controversy between the parties that question must be decided as a preliminary issue.....”

Having regard to the facts and circumstances of the case and in view of the law laid down by the Supreme Court in **Cooper Engineering Limited's Case** (1 supra), the impugned award is liable to be set aside and the matter be remitted to the Labour Court for fresh disposal from the stage of deciding the validity of the disciplinary enquiry report.

Accordingly, the writ petition is allowed and the impugned award

is set aside. The matter is remitted to the Labour Court for fresh adjudication, after giving reasonable opportunity to the petitioner to adduce evidence on his behalf and after appreciation of the material placed on record. No costs.

N.V. RAMANA, J.

Date: 12.10.2006

Nsr/Sj

¹ (1975) 2 Supreme Court Cases 661